

L.N. 193 of 1999

IMPORT AND EXPORT (GENERAL) (AMENDMENT)

REGULATION 1999

(Made by the Chief Executive in Council under section 31
of the Import and Export Ordinance (Cap. 60))

1. Commencement

This Regulation shall come into operation on the commencement of the Import and Export (Amendment) Ordinance 1999 (37 of 1999).

2. Part added

The Import and Export (General) Regulations (Cap. 60 sub. leg.) is amended by adding---

"PART IA

Production Notification of Certain Textiles
for Export

2A. Matters prescribed for purposes of
Part IIA of the Ordinance

(1) The textiles specified in the second column of Part I of the Fifth Schedule are prescribed for the purposes of the definition of "specified textiles" in section 6AA(1) of the Ordinance.

(2) The processes specified in the third column of Part I of the Fifth Schedule are prescribed in relation to the specified textiles opposite those processes in the second column of that Part for the purposes of the definition of "production" in section 6AA(1) of the Ordinance.

(3) The countries or places specified in Part II of the Fifth Schedule are prescribed for the purposes of section 6AA(2) of the Ordinance.

(4) The period specified in Part III of the Fifth Schedule is prescribed for the purposes of the definition of "permitted period" in section 6AA(1) of the Ordinance.

(5) The particulars specified in Part IV of the Fifth Schedule are prescribed as material for the purposes of the definition of "material particular" in section 6AA(1) of the Ordinance.

2B. Exemption from Part IIA of the Ordinance

Part IIA of the Ordinance does not apply to the specified textiles prescribed in Part V of the Fifth Schedule."

3. Part added

The following is added after Part III---

"PART IIIA

Registration in Respect of Import and Export of Textiles

5AA. Interpretation of this Part

In this Part---

"applicant" (申請人), in relation to a relevant document, means the person who applies for the issue of, or is required to lodge with the Director, the relevant document under the Ordinance;

"relevant document" (有關文件) means---

- (a) an import or export licence in respect of textiles;
- (b) a production notification;
- (c) a validated production notification; or
- (d) any other document issued by, or required to be lodged with, the Director in respect of the import or export of textiles under the Ordinance.

5AB. Power to maintain register

(1) The Director may maintain a register in such form as he may determine containing the names, addresses and business of those persons who are---

- (a) approved by the Director or an appointed officer as being eligible to be issued with a relevant document; or
- (b) required to lodge a relevant document with the Director under the Ordinance.

(2) The Director may, before issuing or receiving a relevant document, require the applicant to be registered under paragraph (1).

(3) Where the applicant is required by the Director to be registered under paragraph (1), he may be registered for such period not exceeding 12 months as the Director considers appropriate on payment of the prescribed fee.

(4) The Director may enter in, refuse to enter in, delete from or restore to the register maintained under paragraph (1) the name of any person.

(5) The Director may publish the name and address of any person whose name is entered in, deleted from or restored to the register.

5AC. Method of making application and power to call for evidence in support

(1) Any person or group of persons who wish to be entered upon the register maintained under regulation 5AB or who wish to be issued with or lodge a relevant document shall apply to the Director in such manner and in such form as the Director may determine.

(2) For the purposes of registration or continuation of registration or the issue or lodging of a relevant document, the Director or an appointed officer may require an applicant to maintain or to furnish in such form as he may provide such records or information as he may specify relating to the manufacture, processing or production and sale of goods by such applicant whether or not such goods have been exported or are to be exported and whether or not such goods are included or have been included or are to be included on any relevant document.

(3) As a condition precedent to registration and as a condition of continuation of registration the Director may require an applicant to give such undertaking as to the conduct of his business as the Director may require.

5AD. Restrictions on publication of information obtained under regulation 5AC

(1) No person shall publish any information obtained by the Director or an appointed officer under regulation 5AC which information discloses the identity of any person or the nature of any goods manufactured, processed, produced, sold or exported by any person, unless the Director gives permission for publication of the information.

(2) The Director shall not give permission for the publication of any information under paragraph (1) unless---

(a) publication is limited to the name and address of the person identifiable by the information or to whom the information relates and the fact that he is engaged in the manufacture, processing, production, sale or exportation of a particular product, and is made for the purpose of replying to a trade inquiry; or

(b) in the opinion of the Director, such publication is desirable for the purposes of---

(i) enforcing a provision of these regulations;

(ii) investigating a suspected offence against these regulations; or

(iii) investigating a suspected offence in respect of a relevant document, or an application for or use of it; or

(c) the person identifiable by the information or to whom the information relates consents in writing to publication of the information.

(3) This regulation is subject to any provisions in any other Ordinances that allow the release of information for purposes permitted under those Ordinances.

5AE. Records to be kept and inspection

(1) Without prejudice to regulation 5AC(2), a person whose name is entered in a register maintained under regulation 5AB shall keep---

(a) accurate and up-to-date records containing particulars of---

(i) wages paid to his employees;

(ii) purchases of materials used in the manufacture, processing or production of any article;

(iii) the use of any such materials;

(iv) the daily production of articles manufactured, processed or produced by him;

(v) sales of articles manufactured, processed or produced by him or another person for him and his stock of such articles;

(vi) any work, being work consisting of the manufacture, processing or

production of any article, being carried out for him by another person; and

(vii) cash and bank receipts and payments;

(b) purchase invoices of raw materials and components used in the production of the article specified in a relevant document; and

(c) such other records and documents as the Director may require.

(2) The record containing particulars of wages paid to employees shall contain an acknowledgment by each employee of the receipt of his wages.

(3) Any record kept under paragraph (1) shall be retained by such person for not less than 2 years after it is made."

4. Sections added

The following are added---

"6F. Offences

(1) Any person who---

(a) makes or gives or causes to be made or given any statement, which he knows or has reason to believe to be false or misleading in a material particular, in any declaration or any information whether verbal or in writing or otherwise required by the Director or an appointed officer under these regulations;

(b) makes or gives or causes to be made or given any statement or information, which he knows or has reason to believe to be false or misleading in a material particular, in respect of any document---

(i) that is required to be maintained or furnished under regulation 5AC; or

(ii) that he knows or has reason to believe may be used in support of an application for registration under regulation 5AC;

(c) is in breach of an undertaking or part of an undertaking given under regulation 5AC;

(d) contravenes any requirement under regulation 5AE; or

(e) makes in any record kept under regulation 5AE(1) any statement that he knows or has reason to believe to be false or misleading in a material particular,

commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 2 years.

(2) Where a person convicted of an offence under these regulations is a company, every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(3) Where an offence under these regulations committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any other partner of the partnership or any person concerned in the management of the partnership, that other partner or

the person concerned in the management of the partnership commits the like offence.

6G. Liability of principals

(1) Any person who authorizes another person (hereinafter referred to as the agent) to act for him in relation to anything required to be done under any of these regulations shall be liable for the acts and omissions of the agent, and may accordingly be prosecuted for any offence committed by the agent with respect to any such act or omission in the same manner as if he had himself committed the offence, but shall not be sentenced to imprisonment unless he actually consented to the commission of the offence.

(2) Nothing in this regulation shall relieve the agent from liability to prosecution."

5. Amendment of Schedules

Regulation 7 is amended by repealing "or the Fourth Schedule" and substituting "the Fourth Schedule, or the Fifth Schedule".

6. Schedule added

The following is added---

"FIFTH SCHEDULE [regs. 2A, 2B & 7]

PART I

"Specified Textiles" and "Production" for Purposes of Section 6AA(1) of the Ordinance

Item	Textiles	Process
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1.	Cut-and-sewn garments, which mean	Such assembling operations of such parts
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garments that are cut and sewn, or of the garments as the Director may otherwise assembled, from fabrics. determine for entitling the garments to a certificate of Hong Kong origin under the certification of origin or export licensing system administered by the Director.

PART II

Countries or Places for Purposes of Section 6AA(2) of the Ordinance

1. Canada
2. Member states from time to time of the European Union
3. United States of America

PART III

"Permitted Period" for Purposes of Section 6AA(1) of the Ordinance

On or before the day on which production of the specified textiles commences, but not earlier than 3 working days before that day.

(1) In this Part, "working day" (工作天) means any day other than a general holiday, a gale warning day or a black rainstorm warning day.

(2) In subparagraph (1), "gale warning day" (烈風警告日) and "black rainstorm warning day" (黑色暴雨警告日) have the same meanings as in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

PART IV

"Material Particular" for Purposes of Section 6AA(1)
of the Ordinance

1. Name, address and registration number of the manufacturer.
2. Name, address and registration number of the subcontractor.
3. Product descriptions.
4. Quantity of products.
5. Category number of products.
6. Country or place of destination.
7. Descriptions and sources of component parts.
8. Production order number.
9. Buyer's order number or reference number or mark specifically assigned to identify the purchasing transaction in respect of the particular consignment in question.
10. Local subcontracting arrangement.
11. Commencement and completion dates of production.
12. Place of production.
13. Other particulars from time to time specified by the Director for the purpose of enabling him to determine whether or not a production notification should be validated.

For the purposes of items 1 and 2, "registration number" (登記編號) means the number by which the manufacturer or subcontractor is registered under Part IIIA of these regulations or regulation 7 of the Export (Certificates of Origin) Regulations (Cap. 60 sub. leg.).

PART V

Specified Textiles Exempted from Part IIA of the Ordinance

1. Consignment of specified textiles consisting solely of samples that---
 - (a) are of the same style; and
 - (b) do not exceed 60 pieces in quantity.
2. Consignment of specified textiles consisting solely of samples that---
 - (a) are of the same style; and
 - (b) are intended to be distributed free of charge for the purpose of advertising those garments; and

(c) do not exceed 120 pieces in quantity.

3. Specified textiles that are---

(a) exported in the personal baggage accompanying a person leaving Hong Kong and are for the personal use of that person; or

(b) exported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the textiles are carried,

and are in each case in a quantity that is reasonable having regard to the purpose for which they are exported.".

Mable CHAN

Clerk to the Executive Council

Council Chamber

20 July 1999

Explanatory Note

This Regulation amends the Import and Export (General) Regulations (Cap. 60 sub. leg.) in consequence of the Import and Export (Amendment) Ordinance 1999 (37 of 1999).

2. Section 2 adds the new Part IA, which supplements the provisions relating to the Production Notification (PN) arrangement in respect of certain specified textiles for export under Part IIA of the Import and Export Ordinance (Cap. 61) ("the principal Ordinance"). Matters required or permitted by the principal Ordinance to be prescribed in the regulation are specified in the new Fifth Schedule (at section 6), such as the types of textiles, their manufacturing processes and destination countries that are subject to, and the exemptions from, the PN requirements. Section 5 amends regulation 7 to enable the Director-General of Trade ("the Director") to amend the new Fifth Schedule by order published in the Gazette.

3. Section 3 adds the new Part IIIA, which enables the Director to maintain a register containing the particulars of persons eligible to be issued with, or required to lodge with the Director, documents such as licences, PNs and validated PNs, in respect of textiles under the principal Ordinance. The registration requirements are modelled on those relating to the existing register maintained by the Director under the Export (Certificates of Origin) Regulations (Cap. 60 sub. leg.). The Director may require a person applying for registration to provide records or information relating to the manufacture and sale of his goods and to give undertaking as to the conduct of his business; but provisions are made to restrict the publication of the information obtained. A registered person is also obliged to keep various records and documents relating to the production and other matters of his daily operation.

4. Section 4 adds regulations 6F and 6G to create offences for making or giving false statement or information and for failing to keep the required records in connection

with the new registration requirements. Offences committed by directors, partners, principals, etc., are also included.